

REMARKS

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Claims 1, 3-7, 9-16, 18, 19, 24-26 and 30 are pending in this application.

By this Amendment, the features of claim 6 are incorporated into claim 1, the result of which claim 6 is cancelled.

Claims 1, 3-5, 7, 9-16, 18, 19, 24-26 and 30 are amended to delete "or a solvate."

Claim 10 is also amended to delete the commas after the word "independently."

I. Restriction Requirement

On the Office Action Summary page, the Examiner indicates that claims 3, 11, 13, 14, 16, 18, 19, 24, 25 and 30 are withdrawn from consideration as being non-elected. Further, in item 5, on pages 2-3, the Examiner indicates that pursuant to MPEP 803.02, the search and examination was extended, but prior art was found that anticipates the non-elected species, which is shown in the table on page 3. Thus, the Examiner indicates that the Markush claims were rejected and the non-elected species remain withdrawn from further consideration.

Applicants appreciate the courtesies extended to Applicants' representative by Examiner Loewe during the telephonic interview on June 18, 2009. Applicants respectfully request rejoinder of all of the withdrawn claims and species, and appreciate the Examiner's attempt to broaden the search.

II. Claim Rejection Under 35 U.S.C. § 112

The Examiner rejects claims 1, 4-7, 9, 10, 12, 15 and 26 under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for making/using a "pharmaceutically acceptable salt" of a compound of Formula (I), does not reasonably provide enablement for making/using a "solvate."

By this Amendment, the pending claims are amended to delete "or a solvate," rendering the rejection moot.

III. Claim Rejection Under 35 U.S.C. § 102

The Examiner rejects claims 1, 4, 5, 7, 9, 12 and 26 under 35 U.S.C. § 102(e) as being anticipated by Shoda et al. (US 7,470,807). By this Amendment, claim 1 is amended to incorporate the subject matter of non-rejected claim 6. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

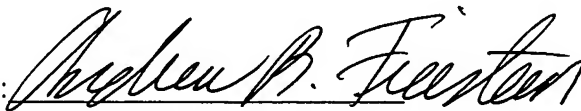
IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner find that anything further would be desirable in order to place the application in better condition for allowance, she is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

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